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7                   UNITED STATES DISTRICT COURT  
8                   WESTERN DISTRICT OF WASHINGTON  
9                   AT TACOMA

10                  HOLLY A. NEILL, an individual; CORI  
11                  MULSOFF, an individual; BRENDA JONES,  
12                  an individual,

13                  Plaintiffs,

14                  v.

15                  ALL PRIDE FITNESS OF WASHOUGAL,  
16                  LLC, a Washington Limited Liability  
17                  Corporation; CHINDIANAOPLIS, a  
18                  Washington Limited Liability Corporation;

19                  Defendants.

20                  Case No. C08-5424RJB

21                  ORDER GRANTING PLAINTIFFS'  
22                  MOTION FOR SANCTIONS  
23                  REGARDING DEPOSITIONS

24                  This matter comes before the Court on the above-referenced motion (Dkt.152). The court is  
25                  familiar with the records and files herein and documents filed in support of and in opposition to the  
26                  motion.

27                  The critical facts in regard to this motion are these: Depositions of Mr. Balenhorst and Mr.  
28                  Plouffe were set for July 20 and 21, 2009. Mr. Balenhorst and Mr. Plouffe are both fact witnesses,  
29                  and Federal Rule of Civil Procedure 30(b)(6) witnesses. Mr. Plouffe, at the time the depositions  
30                  were set, was also a defendant. Mr. Plouffe filed bankruptcy on July 19, 2009, and accordingly, this  
31                  case was automatically stayed as to him insofar as he is a defendant. The record is silent as to when  
32                  defense counsel knew of Mr. Plouffe's impending bankruptcy, but they had time to notify plaintiffs'

1 counsel of the bankruptcy before the depositions were scheduled to start. Mr. Nold notified  
2 plaintiffs' counsel twelve minutes before the depositions were to start that the depositions would not  
3 take place. He gave this notice by telephone, overlooking the fact that the case was not stayed as to  
4 the corporate defendants; that Mr. Plouffe and Mr. Balenhorst were both Rule 30(b)(6) witnesses, as  
5 to the corporate defendants; and that Mr. Balenhorst and Mr. Plouffe were also fact witnesses as to  
6 the claims against the corporate defendants. In short, there was no legal basis upon which to  
7 unilaterally and precipitously cancel the depositions.

8 Regardless of whether the late notice was a planned dirty trick or inadvertence on the part of  
9 defendants' counsel, the result was the same. Plaintiffs' counsel Sheldrick and Dunn were present  
10 and ready to conduct the depositions in Vancouver, WA, along with a court reporter and  
11 videographer. The record is silent as to the amount of time that was wasted by plaintiffs' lawyers  
12 due to the late and inappropriate cancellation of the depositions, nor are the videographers and court  
13 reporter's bills before the court. It is, however, obvious that plaintiffs' counsel has spent a number  
14 of hours setting up the cancelled depositions and appearing for them, and making arrangements for  
15 the depositions to proceed at a later date. Based on the scant time record before the court, the court  
16 finds that Mr. Dunn and Ms. Sheldrick are each entitled to \$1,000.00 in terms to reimburse them for  
17 lost time due to defendants' actions. In addition, the defense should pay any appearance fees for the  
18 court reporter and videographer on July 20, 2009, upon presentation of their billings.

19 The parties, in their voluminous pleadings, raise other issues that need not be addressed by  
20 the court at this time.

21 Therefore, it is now

22 ORDERED that Plaintiffs' Motion for Sanctions Regarding Depositions (Dkt. 152) is  
23 GRANTED. Sanctions against defendants All Pride Fitness of Washougal, LLC and Chindianapolis  
24 LLC and Nold and Associates PLLC, are GRANTED in the total amount of \$2,000.00 for lost  
25 attorney's time, plus the amount of the videographer and court reporter's bills for July 20, 2009.

Sanctions should be paid forthwith.

The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

DATED this 17<sup>th</sup> day of August, 2009.

*Robert Bryan*

Robert J Bryan  
United States District Judge